Evaluation of the Akron-Kent Rail Line for the Summit County Port Authority

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SUMMIT COUNTY PORT AUTHORITY
AKRON-KENT RAIL LINE EVALUATION
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I. EXISTING CONDITIONS

The objective of this evaluation is the determination of costs and obligations incurred by the Summit County Port Authority's 1994 acquisition of the former Conrail Freedom Secondary (Erie Lackawanna) rail line between Akron and Kent. The assessment and associated compilation of data is also intended to be a valuable reference point, useful for future analysis of rail passenger and/or freight service on the line.

Valuation mapping, drawings, inspection records, and other data received by the Port Authority from Conrail was reviewed. The valuation maps were also heavily referenced during field inspections with revisions and changes noted as appropriate.

The field survey was performed on foot, supervised by an engineer experienced in renewal and inspection of railroad track per Federal Railroad Administration (FRA) Track Safety Standards Section 213.7. Major areas of attention included right-of-way property, track components, highway crossings, drainage components, and structures.

The existing conditions data is summarized as follows, with detailed tables following this section. Additional data regarding the line is available on the 1970's era Conrail track chart, which is included in the Appendix.

General

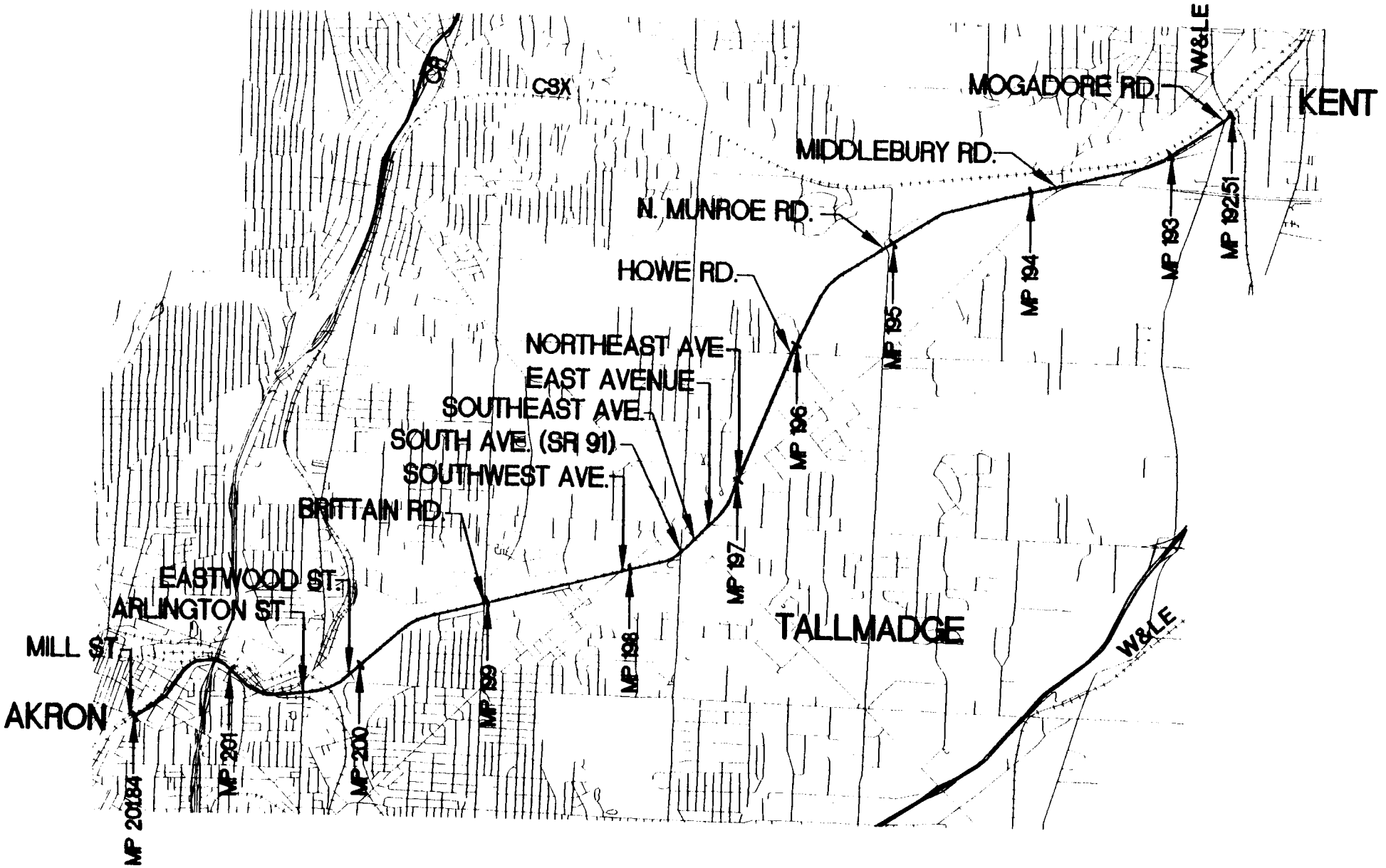
The line is a former main line, supporting through freight service between Chicago and New Jersey until the late 1970's. It was built to relatively high standards, originally including two main tracks, with moderate to light curvature (two to three degrees) in the Akron-Kent segment.

The second main track and most secondary trackage have since been removed. The northerly track remains, except for a short stretch between Howe Avenue and Southeast Avenue near Tallmadge where the track has been realigned so that only the southerly track remains. The roadbed of the removed track is generally accessible for vehicles.

This report will identify locations by milepost (many of the signs remain standing) and by description relative to highway crossings. The mileposts are shown in the valuation mapping and are referenced in most property documentation and descriptions. As shown in Figure 1, the Port-owned segment begins at MP 201.84, at the south side of the Mill Street bridge in Akron. It extends east through Tallmadge, through a corner of Munroe Falls, to the western edge of Kent at MP 192.51 near the Wheeling and Lake Erie Railroad overpass. About 1.3 miles of the line is in Portage County.

Track

A single track remains in place over almost the entire line, except between MP 201.84 and about MP 201.3 west of Park St, where no tracks remain. Portions of an additional connection track to the



SUMMIT COUNTY PORT AUTHORITY
FIGURE 1 AKRON-KENT RAIL LINE
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Recommendations

Regulatory and Liability Issues

former Baltimore and Ohio Railroad (now CSX) remain in place west of Arlington Street. The single main track is generally in fair condition, and could meet the requirements of FRA Class 1, which permits freight only operations at 10 mph, with relatively minor rehabilitation. Other than heavy brush and some small trees, the most significant obstacles for service are two highway crossings (Eastwood Street in Akron and Southwest Avenue in Tallmadge) which have been paved over and/or partially removed.

The line is currently isolated from outside rail systems, since track has been removed at the western end in Akron and a short section (approx. 100 feet) has also been removed in Kent. The only other rail connection was at Arlington Street.

The segment includes both jointed and welded rail. The condition of the rail is good for low speed freight service, but does not meet generally accepted quality for higher speed passenger service. Tie condition is fair to poor for low speed freight service. The ballast section is largely intact, with minimal to moderate contamination. Several areas of more serious contamination exist. The entire line is weed covered, and some areas of heavy vegetation growth, including trees, exist. Table 1 summarizes track component and curvature information.

Right-of-way and Property

A fiber optic communications line runs parallel to and within the right-of-way, at a depth of about three to six feet below grade. Damage to this line can be very costly; before any construction activities are undertaken, the line's owner should be contacted and requested to mark the line's location to minimize the risk of accidental damage. It is owned by Sprint Long Distance, which can currently be reached at 800-521-0579.

Numerous other utilities cross the right-of-way, including underground gas, water, and communications lines and overhead electric and other lines. The Port's copies of lease and easement agreements (as received from Conrail) were randomly reviewed, but a complete listing of utility locations was not attempted, since no unusual problems or issues were identified during the field inspection.

The property is very accessible to trespassers; most of the line is unfenced. Several locations showing evidence of frequent trespassing or encroachment by adjacent property owners are indicated in Table 2. These conditions are of concern from a liability perspective, with the most significant including:

MP	Issue
201.27	Vehicle access and parking at the end of Arch St./Union St. near the Acme Warehouse (Akron)
196.15	Drainage channel excavated through track (Tallmadge)
196.00	Dumping of debris (east of Howe Road Munroe Falls)

Highway Crossings

The line includes 11 public at-grade highway crossings, as shown in Table 3. Three of the crossings have rubber surfaces, three have primarily asphalt surfaces with flangeway timbers adjacent to the rails, three are asphalt-only surfaces, and two have been completely paved over. The rubber or timber crossing surface conditions at the crossings are generally good.

Five of the crossings are equipped with automatic flashing lights and gates, five with flashing lights only, and one has no protection. The crossing signalization systems are relatively modern and in good to very good condition. Though the devices are deactivated, all significant components appear to be in place except as noted in the table. In most locations, the electric utility service has been disconnected. The back-up battery systems have also been disconnected, though at the time of inpsection they remained in place inside the steel signal cases and/or low concrete battery wells located at each crossing. These batteries (each cell supplies 2.2 volts) are often joined in series of as many as seven individual cells.

Culverts and Drainage Structures

Table 4 summarizes existing culverts and drainage structures. Twenty-eight (28) drainage structures are identified on the valuation map drawings, not including five bridges of greater than 10 feet in length. Ten of the 28 culverts could not be located in the field. This is likely because of erosion, embankment modifications, a depth below grade, or previous removal. Most of the structures range in cross-sectional width from one to three feet.

These structures have obviously received little or no maintenance over the years, and many of these structures are partially blocked with silt or debris. No evidence of major flooding conditions were found, however. Recommendations for the treatment of blockages and other issues are made later in this report.

Bridges

Since bridges comprise a significant maintenance and liability concern, they were investigated in more detail. The line segment includes five major bridges, which are generally in good structural condition, described as follows. The detailed bridge inspection reports are included in the Appendix.

Structure No. 1 (MP 200.74) This structure, crossing North Forge St., is a 53' 3" plate girder bridge with a concrete slab deck. There is about 3' of ballast on top of the concrete slab. This structure has no drains. There is no scouring at the abutments. Abutment backwalls and wingwalls show no signs of spalling. Bearings are set on concrete pedestals, and appear to be in good condition. The retaining wall at the northeast corner has separated from the backwall. Piers and pier caps have some concrete spalling and exposed reinforcing steel. Concrete around these areas is generally sound.

The handrail, constructed of 3" diameter steel pipe, is anchored into the concrete slab. The west handrail has timber planks placed behind it, and is filled with ballast to within 6" from the top of the handrail. The east side handrail is in good condition.

There are two (2) fiber optic cables enclosed in PVC conduit attached to the exposed face of the north abutment. These cables come from an existing pole on the west side marked "OBT Co. Contact". The next pole west is Pole No. 112237.

Structure No. 2 (MP 200.65) This structure is a 16' concrete beam span over a single Wheeling & Lake Erie railroad track. There is about 8' of fill and ballast on top of the concrete slab. This structure does not have any drains. There is no scouring at the abutments. A steel channel plate is located on the bottom of the concrete slab, at the center of the slab. The steel plate appears to be in good condition. The concrete slab shows minor spalling.

The forward abutment construction joint shows signs of deterioration, including some water seepage. The concrete within about 2' of the joint is sound. The rear abutment shows no signs of deterioration. The parapet on the southwest corner has some spalling. The southwest wingwall has some concrete spalling, but no reinforcing bars are exposed.

The handrail on the south side is made from wood planks and wood posts. The planks and posts are rotted, and falling down. There is a retaining wall on the north side with no handrail at all. This retaining wall, which separates the Summit County Port Authority and parallel CSX trackage, is in good condition, with no concrete spalling.

Structure No. 3 (MP 200.27) This two track structure, over CSX trackage, is a 101' deck plate girder bridge with railroad bridge ties sitting directly on top of the girders. The east and west abutments show signs of scouring on the north slope. The abutments and wingwalls are made from cut stone and concrete. Both abutments and wingwalls need some pointing. The concrete at the abutment backwalls and wingwalls shows signs of weathering, but could not be inspected closely. The bridge bearings are set on concrete pedestals, and show no signs of deterioration.

The railroad bridge ties and tie pads are in good condition. The inner guard rails across the bridge have been removed. There is no handrail on either side of the bridge. The south track has been removed from the bridge. A fiber optic cable conduit is attached to the north facia girder. The track alignment across the bridge is good.

Structure No. 4 (MP 200.22) This structure is a two (2) cell arched culvert made of cut stone. The stream flows south to north. At the time of inspection, both cells contained about 2' of water. A significant amount of debris has collected upstream of the west cell. The east cell had no obstructions, and the interior appears to be in good condition, except for minor leaching through the ceiling. The point between the 2 cells on the south side shows signs of weathering.

There is an erosion problem just west of the cells, but the conditions seem to suggest that the slide area has been there for some time. The north face of culvert is in good condition, though the stones on the north and south sides need minor pointing.

Structure No. 5 (MP 195.06) This structure is a 23' 4" deck plate girder bridge spanning North Munroe Road. The east and west abutments show no signs of scouring. Abutments

and wingwalls are made of cut stone, and backwalls are made of concrete. The concrete at backwalls is weathered and starting to crumble. Abutment and wingwall stones are in good condition, but need minor pointing. Some of the stones have been removed and filled with concrete. Bearing pedestals are made of steel, and anchored into the concrete and stone. The northeast wingwall has a section of stone that has separated from the wingwall.

The railroad bridge ties and tie pads are in good condition. The inner guard rails across the bridge have been removed. The bridge ties on the south side have been removed, and a barricade has been erected at each end to keep vehicles off the girders. There is no handrail on either side of the structure. A fiber optic cable conduit is attached to the north facia girder. The track alignment across the bridge is good.

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TABLE 1
EXISTING TRACK CONDITIONS
AKRON – KENT
SUMMIT COUNTY PORT AUTHORITY

MILEPOST AT WEST END OF SEGMENT	SEGMENT LENGTH (MILES)	NUMBER EXISTING TRACKS	CURVATURE (DEGREES)	TYPE RAIL*	TIE CONDITION	BALLAST CONDITION	TURNOUT CONDITION	OVERALL TRACK CONDITION	EXISTING PUBLIC AT-GRADE CROSSING	NOTES
201.84	0.08	0	0.00	NONE	FAIR/POOR	FAIR	–	FAIR	–	MILL ST. AKRON
201.76	0.02	0	1.00	NONE	FAIR	FAIR	–	FAIR	–	
201.74	0.05	0	0.00	NONE	FAIR	FAIR	–	FAIR	–	
201.69	0.14	0	4.17	NONE	FAIR	FAIR	–	FAIR	–	
201.55	0.16	1	0.00	132RE	FAIR	FAIR	–	FAIR	–	
201.39	0.16	1	4.30	132RE	FAIR	FAIR	–	FAIR	–	
201.23	0.01	1	0.00	132RE	FAIR	FAIR	–	FAIR	–	
201.22	0.25	1	5.00	132RE	FAIR	FAIR	–	FAIR	–	
200.97	0.09	1	0.00	132RE	FAIR	FAIR	–	FAIR	–	
200.88	0.25	2	4.00	132RE	FAIR	FAIR	–	FAIR	–	
200.63	0.28	1	0.00	132RE	FAIR	FAIR	–	FAIR	N. ARLINGTON ST.	
200.35	0.21	1	3.00	132RE	FAIR	FAIR	–	FAIR	–	
200.14	0.49	1	0.00	131RE	FAIR/POOR	FAIR	–	FAIR	EASTWOOD ST.	
199.65	0.26	1	2.00	131RE	FAIR	FAIR	–	FAIR	–	
199.39	1.62	1	0.00	130RE	FAIR	FAIR	GOOD	FAIR	BRITTAIN RD., SW AVE.	
197.77	0.19	1	3.00	131RE	FAIR/POOR	POOR	–	FAIR	SOUTH AVENUE	
197.58	0.27	1	0.00	131RE	FAIR/POOR	POOR	–	FAIR	SE AVE., EAST AVE.	
197.31	0.20	1	2.00	131RE	FAIR	FAIR	–	FAIR	–	
197.11	1.39	1	0.00	131RE	POOR	FAIR	–	FAIR	HOWE RD., NE AVE.	
195.72	0.32	1	2.00	131RE	FAIR	FAIR	–	FAIR	–	
195.40	0.74	1	0.00	131RE	FAIR	FAIR	–	FAIR	–	
194.66	0.19	1	2.00	131RE	FAIR/POOR	FAIR	–	FAIR	–	
194.47	1.24	1	0.00	131RE	FAIR/POOR	FAIR	–	FAIR	MIDDLEBURY ROAD	
193.23	0.18	1	2.00	131RE	POOR	FAIR	–	FAIR	–	
193.05	0.42	1	0.00	131RE	FAIR/POOR	FAIR	–	FAIR	–	
192.63	0.12	2	2.00	131RE	FAIR/POOR	FAIR	–	FAIR	MOGADORE ROAD	
192.51	–	–	–	–	–	–	–	–	–	KENT

*NOTE: 132RE RAIL GENERALLY IN PLACE IN ALL RUBBER CROSSINGS

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TABLE 2
EXISTING RIGHT–OF–WAY CONDITIONS AND DATA
AKRON – KENT
SUMMIT COUNTY PORT AUTHORITY

MILEPOST LOCATION	LOCATION RELATIVE TO NEAREST ROAD	CITY	DRAINAGE CONDITIONS	TYPICAL RIGHT–OF–WAY WIDTH (FEET)	ADJACENT LAND USE	COMMENTS/CONCERNS
201.83	AT MILL STREET	AKRON	GOOD	EST. 30	COMMERCIAL	START OF PROPERTY
201.47	EAST OF PERKINS	AKRON	GOOD	50	COMMERCIAL	450' CONC. RETAINING WALL (FAIR COND.)
201.27	AT BLUFF STREET	AKRON	GOOD	60	COMMERCIAL	VEHICLE PARKING ADJACENT TO TRACK
200.99	1300' EAST OF BLUFF STREET	AKRON	FAIR	70	RESIDENTIAL	EMBANKMENT FAILING AT EDGE OF TIES
200.88	AT UNION STREET	AKRON	GOOD	70	RESIDENTIAL	UNAUTHORIZED ACCESS FROM UNION ST.
199.00	AT BRITTAIN ROAD	TALLMADGE	GOOD	100	COMMERCIAL	CITY BOUNDARY
197.90	700' EAST OF SOUTHWEST AVE.	TALLMADGE	GOOD	100	COMMERCIAL	MINOR DUMPING OF LEAVES
197.60	300' WEST OF SOUTH AVE.	TALLMADGE	GOOD	100	COMMERCIAL	UNAUTHORIZED CROSSING FOR CEMETERY
197.30	150' WEST OF EAST AVE.	TALLMADGE	GOOD	150	COMMERCIAL	PEDESTRIAN CROSSING
196.15	500' SOUTH OF HOWE ROAD	TALLMADGE	FAIR	100	RESIDENTIAL	DRAINAGE CHANNEL THROUGH TRACKS
196.00	300' NORTH OF HOWE ROAD	TALLMADGE	GOOD	100	UNDEVELOPED	DUMPING OF DEBRIS
195.72	2500' WEST OF MUNROE ROAD	TALLMADGE	GOOD	100	UNDEVELOPED	CITY BOUNDARY
195.00	100' EAST OF MUNROE ROAD	MUNROE FALLS	GOOD	100	RESIDENTIAL	CITY BOUNDARY
194.70	600' EAST OF MUNROE ROAD	MUNROE FALLS	GOOD	100	COMMERCIAL	ASPHALT PLANT ADJACENT
194.47	3400' WEST OF MIDDLEBURY RD	TALLMADGE	GOOD	135	AGRICULTURAL	WATER PONDING FOR 500' ALONG TRACK
194.33	3000' WEST OF MIDDLEBURY RD	TALLMADGE	GOOD	100	AGRICULTURAL	DUMPING OF DEBRIS
193.20	1200' EAST OF MIDDLEBURY RD	KENT	GOOD	100	COMMERCIAL	ASPHALT PLANT ADJACENT
192.84	2000' WEST OF MOGADORE RD	KENT	GOOD	100	UNDEVELOPED	UNAUTHORIZED ACCESS FROM CHERRY RD.
192.72	1700' WEST OF MOGADORE RD	KENT	GOOD	100	UNDEVELOPED	UNAUTHORIZED DIRT BIKE CROSSING

Regulatory and Liability Issues

TABLE 3
RAIL/HIGHWAY CROSSING INVENTORY

AKRON – KENT
SUMMIT COUNTY PORT AUTHORITY

RAILROAD MILEPOST	ROADWAY NAME	DOT ID	CITY	CROSSING LENGTH	CROSSING MATERIAL	CROSSING CONDITION	SIGNALIZATION	SIGNALIZATION COMPONENTS	NOTES
200.44	ARLINGTON ST.	264 877 D	AKRON	65'	RUBBER	VERY GOOD	FL	1 CASE (5 BATTERIES)	
200.09	EASTWOOD ST.	264 878 K	AKRON	–	PAVED OVER	POOR	NONE		
199.01	BRITTAIN RD.	264 879 S	AKRON	60'	RUBBER	VERY GOOD	FL AND GATES	2 CASE (4 BATTERIES)	
198.04	SOUTHWEST AVE	264 880 L	TALLMADGE	66'	PAVED OVER	GOOD	~~FL AND GATES~~	1 CASE/1 WELL (? BAT.)	1
197.63	SOUTH AVE (SR 91)	264 881 T	TALLMADGE	60'	45' RUBBER/15' TIM.	FAIR	~~FL AND GATES~~	1 CASE/1 WELL (2 BAT.)	2
197.48	SOUTHEAST AVE	264 882 A	TALLMADGE	26'	~~ASPHALT~~	FAIR	~~FL~~	1 CASE/1 WELL (2 BAT.)	3
197.36	EAST AVENUE	264 883 G	TALLMADGE	80'	TIMBER/ASPHALT	GOOD	~~FL AND GATES~~	1 CASE (2 BATTERIES)	
196.96	NORTHEAST AVE	264 884 N	TALLMADGE	72'	TIMBER/ASPHALT	GOOD	~~FL~~	1 CASE (1 BATTERY)	4
196.06	HOWE ROAD	264 885 V	TALLMADGE	60'	ASPHALT	GOOD	FL	1 CASE (? BATTERY)	5
193.80	MIDDLEBURY RD	264 889 X	MUNROE FALLS	45'	ASPHALT	FAIR	FL AND GATES	1 CASE (2 BATTERIES)	6
192.57	MOGADORE RD	262 361 L	KENT	45'	TIMBER/ASPHALT	POOR	FL	1 CASE (0 BATTERIES)	7

FL = FLASHING LIGHTS

NOTES:

1 PARTIAL TIMBER CROSSING IN PLACE, PAVED OVER. LOCK BROKEN, COULD NOT ACCESS BATTERY WELL
2 MINOR DAMAGE TO CROSSING PADS, COULD NOT ACCESS BATTERY WELL
3 DAMAGED CASE AND UNSTABLE FOUNDATION, NOT SECURELY LOCKED
4 SOME CASE COMPONENTS MAY BE MISSING
5 SIGNAL–TYPE LOCKS, COULD NOT ACCESS
6 OHIO EDISON METER IN PLACE (POSSIBLY ACTIVE), LOW HANGING COMMUNICATION WIRES
7 OHIO EDISON METER IN PLACE (POSSIBLY ACTIVE), NORTH SIGNAL MISSING. REMAINING → OK FOUNDATION A HAZARD TO VEHICLES. BATTERIES MISSING.
ALL MOST CROSSINGS HAVE SIGNAL INSPECTION REPORTS AND SCHEMATICS IN CASES (LAST PERFORMED EARLY 1993)

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Liability Issues

TABLE 4
CULVERTS AND STRUCTURES INVENTORY
AKRON – KENT
SUMMIT COUNTY PORT AUTHORITY

RAILROAD MILEPOST	CITY	TYPE OF CROSSING	TYPE OF STRUCTURE	MATERIAL	STRUCTURE SIZE	CONDITION/NOTES
201.12	AKRON	STORM	CULVERT	CAST IRON	36"	CANNOT LOCATE
200.99	AKRON	STORM	CULVERT	CAST IRON	18"	PARTIALLY SILTED, BUT FLOWING
200.75	AKRON	STORM	CULVERT	BRICK	54"	CANNOT LOCATE
200.74	AKRON	NORTH FORGE ST	BRIDGE	DECK PLATE GIRDER	53'–3"	SEE BRIDGE DATA
200.65	AKRON	W & LE RR	BRIDGE	CONC. BEAM SPAN	16'	SEE BRIDGE DATA
200.44	AKRON	STORM	CULVERT	CAST IRON	24"	CANNOT LOCATE
200.27	AKRON	CSX RR	BRIDGE	DECK PLATE GIRDER	101'	SEE BRIDGE DATA
200.26	AKRON	STREAM	BRIDGE	CONC. ARCH	2–12'	SEE BRIDGE DATA
199.97	AKRON	STORM	CULVERT	CAST IRON	36"	CANNOT LOCATE
199.66	AKRON	STREAM	CULVERT	CONCRETE	3–2.5' X 3.5'	DEBRIS BLOCKING INLET, BUT NO IMPACT
199.36	AKRON	STREAM	BRIDGE	STONE ARCH	9'	OUTLET PARTIALLY BLOCKED, NO IMPACT
198.90	TALLMADGE	STORM	CULVERT	CONCRETE	2' X 3'	CANNOT LOCATE
198.47	TALLMADGE	STORM	CULVERT	CONCRETE	2.5 X 3'	OUTLET PARTIALLY BLOCKED, NO IMPACT
198.30	TALLMADGE	STREAM	CULVERT	CONCRETE	14.5'X13'	CLEAR, FLOWING
197.86	TALLMADGE	STORM	CULVERT	STONE BOX	4' X 8'	CLEAR, FLOWING
197.31	TALLMADGE	STORM	CULVERT	CONCRETE	2.5' X 3.5'	CANNOT LOCATE
196.48	TALLMADGE	STORM	CULVERT	STONE BOX	2'X3'	CANNOT LOCATE
196.10	TALLMADGE	STORM	CULVERT	CAST IRON	36"	CANNOT LOCATE
195.81	TALLMADGE	STORM	CULVERT	CORREGATED METAL	15"	SILTED AT INLET, NO IMPACT
195.73	MUNROE FALLS	STORM	CULVERT	STONE BOX	2–2' X 3'	SILTED, NO IMPACT
195.20	MUNROE FALLS	STORM	CULVERT	CONCRETE	2' X 3'	SOME DEBRIS, BUT FLOWING
195.06	MUNROE FALLS	N. MUNROE RD.	BRIDGE	DECK PLATE GIRDER	23'–4"	SEE BRIDGE DATA
195.02	TALLMADGE	STORM	CULVERT	STONE BOX	2' X 3'	SILTED AT OUTLET, NO IMPACT
194.84	TALLMADGE	STORM	CULVERT	STONE BOX	2' X 3'	SILTED, NO IMPACT
194.60	TALLMADGE	STORM	CULVERT	STONE BOX	2–2' X 3'	CLEAR, FLOWING
194.24	TALLMADGE	STORM	CULVERT	STONE BOX	2' X 3'	CLEAR, FLOWING
194.12	TALLMADGE	STORM	CULVERT	STONE BOX	2' X 2'	CLEAR, FLOWING
193.98	TALLMADGE	STORM	CULVERT	STONE BOX	2' X 3'	1/2 FULL SILT, POSSIBLE MINOR FLOODING
193.65	TALLMADGE	STORM	CULVERT	STONE BOX	2' X 2'	CANNOT LOCATE
193.45	TALLMADGE	STORM	CULVERT	STONE BOX	2 – 2' X 3'	1/2 FULL SILT, NO IMPACT
193.27	TALLMADGE	STORM	CULVERT	STONE BOX	2' X 2.5'	CLEAR, FLOWING
193.07	TALLMADGE	STORM	CULVERT	STONE BOX	2.5' X 2.5'	CLEAR, FLOWING
192.69	TALLMADGE	STREAM	BRIDGE	STONE ARCH	10'	CLEAR, FLOWING

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II. REGULATORY AND LIABILITY ISSUES

General

Applicable standards and guidelines of appropriate practice were identified, including those of the Federal Railroad Administration (FRA), Public Utilities Commission of Ohio (PUCO), Ohio Department of Transportation (ODOT), and the American Railway Engineering Association (AREA).

State of Ohio Out-of-Service Regulations

Ohio House Bill No. 154 of 1993, which references Ohio Revised Code Sec. 4955.37 (a portion of which is included in the Appendix), includes important requirements regarding out-of-service railroad lines. The regulation requires that ODOT be notified if a track which crosses public grade crossings is to be taken out of service, and must include the locations of the crossings. The regulations impose the following conditions regarding the treatment of highway grade crossings on out-of-service lines:

- trains may not be operated over grade crossings on the line;
- crossbucks and other protection devices must be removed or covered;
- one rail on each side of each crossing must be removed; and
- public notice of the grade crossing protection treatments must be given.

Upon issuance of the above notice, ODOT will then post highway signs regarding the out-of-service status at each crossing, and notify transit agencies, school districts, and other highway users of the change. To restore service on out-of-service rail lines, the track owner must notify ODOT of this desire, and the above process must repeat in reverse, including public notifications and track and signal restorations.

Several provisions of the law are unclear. For example, the law is not clear regarding whether an inactive line must be declared out-of-service, and how soon following cessation of service this must be done. Also, no guidance is provided in cases where service is expected to resume in the future.

A public benefit of the regulation is that highway users will not encounter warning signals protecting an unused line, which could encourage the habit of ignoring them. And, vehicles carrying hazardous materials and school buses will not be required to stop at the crossings. However, from the track owners' perspective, there are no apparent beneficial provisions of the law. In fact, the prescribed track and signal removal measures actually detract from the railbanking concept of preserving future uses of the line. In addition, a conflict appears to exist between this regulation and policies of the PUCO, which must approve the removal of automatic crossing protection devices.

While the provisions of this bill expire in June of 1995, it was apparently intended by its sponsor (Betty Montgomery, now Attorney General) to be experimental. This allows an opportunity to revise the language before the enactment of permanent provisions. According to Susan Kirkland, who is heading the effort at ODOT (614-644-0306), the State does intend to make some form of the law

permanent. Currently, the policies and details are being developed and are undergoing revision. For example, the District ODOT offices may end up administering the program. In the meantime, ODOT is using a rail line in northwest Ohio as a test case for the out-of-service provisions.

Obviously, it is recommended that the Port comply with the laws of the State. The Port should notify the office of the ODOT Deputy Director of Rail, Jeff Honefanger, of the line's status, and the Port's intent to comply with the regulation. However, since the details of the State's procedures and detailed policy are not yet finalized, it is recommended that a dialogue be opened to clarify and resolve the above issues and concerns. In particular, since the line is currently isolated from outside rail systems by the removal of track at the end of the line in Kent, the removal of additional rail at each crossing seems unnecessarily destructive. These issues and concerns should also be raised as input to the consideration of language for a future modified regulation.

Track

The FRA Track Safety Standards (last revised 1982), which prescribes minimum safety standards for track that is part of the general transportation system, apply only to operating lines. The minimum unrestricted classification level is Class I, which permits freight operations at up to 10 mph. The track owner establishes the classification based on desired maximum speed and use.

An additional restricted classification is available for lines such as this one. A track owner may designate segments as excepted track (per FRA Subpart A Section 213.4) provided that the segment:

- is appropriately identified in the owner's records;
- is not located within 30 feet of an adjacent track which could ber subjected to simultaneous use at speeds in excess of 10 mph;
- is inspected at the same frequency as Class I (weekly or before use if the track is used less than once a week);
- if cars required to be placarded by the Hazardous Materials Regulations (49 CFR Part 172) are moved over the track, the segment cannot include or be near a bridge or public crossing;
- is restricted to 10 mph;
- is not used by revenue passenger trains;
- and no freight train is operated carrying more than five cars classified under the Hazardous Materials Regulations of 49 CFR 172.

The Code of Federal Regulations reference lists and classifies over 200 pages of those substances which the Department of Transportation has designated as hazardous materials for purposes of transportation. These include all substances requiring vehicle placarding and labeling, such as most chemicals, gases, explosives, etc.

If no trains are operated over certain line segments, no track inspection or maintenance of those segments is required. When a segment is reactivated, no notification is necessary, as long as the owner has ensured that the appropriate FRA classification requirements are met. Any lease arrangement for use of any portion of the line should clearly assign these responsiblilities to the lessee, unless the Port plans to address them itself.

Highway Crossings and Signalization Components

Section 4955.20 of the Ohio Revised Code requires that crossing surfaces be maintained for the safety of the travelling public. The PUCO enforces these provisions by means of annual or semi-annual inspections, and local roadway authorities also monitor conditions. Additionally, it is in the Port's best interest to ensure safe crossing surfaces, since crossings are likely to be one of the most significant liability issues faced as owner of the line.

Typically, the railroad owner is responsible for the roadway surface above the crossties (about 10 feet in width), while the roadway maintenance authority (city, county, or ODOT) is responsible for the roadway up to the crossing itself. An exception to this is when the railroad raises the level of the track for its own purposes, in which case the railroad is also responsible for the new roadway approach to match this new elevation. Generally, crossing maintenance can range from minor asphalt patching to major crossing replacement.

ORC Section 4955.36 requires active crossings to be clear of brush and trees to permit good visibilty of oncoming trains. This provision does not apply to non-operating lines.

Crossing signalization component conditions are also covered by the PUCO inspections. Active lines are generally inspected every year. Automatic warning devices on active lines are covered by fairly detailed FRA inspection and maintenance provisions, which are best met by a contractor experienced in signal-related work. The FRA requirements do not apply to inactive lines. While signalization can be removed on abandoned lines, removal on active lines requires PUCO approval.

Bridges and Culverts

The PUCO requires that all railroads inspect their bridges annually, and annually submit a copy of the inspection report. The PUCO generally defines bridges as structures of greater than 10 feet in length. Other than the requirement that they be inspected, neither the PUCO nor the FRA currently have bridge-related inspection standards or requirements, relying instead on established practices and each railroad's experience. The format used for bridge inspections in this study (as included in the Appendix) is similar to that used by CSX and other railroads. The FRA is, however, considering the development of a new detailed policy.

Property/Right-of-way

The same liability issues and maintenance practices apply to this rail right-of-way as for any other piece of property. To minimize liability exposure, it is recommended that "No Trespassing" signage be erected at locations known to be used by trespassers and at any other potentially hazardous locations. Other provisions will be discussed in the next section.

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III. RECOMMENDATIONS

This section identifies the strategic actions necessary to limit the Port's liability and ensure compliance with existing regulations related to its ownership of the rail line. These recommendations are based on the existing conditions described in Section I and the issues identified in Section II. For each major category (property/right-of-way, highway crossings, and bridges and structures), initial actions, periodic inspection, and maintenance recommendations will be identified.

Property/Right-of-way

Several initial actions are recommended, as follows:

1) Erect "No Trespassing" signage at locations known to be used by trespassers and at other potentially hazardous locations. These should include all five bridges, all highway crossings, and other locations known to be subject to unauthorized use as noted in Table 2.

2) In the locations where unauthorized use of the property is ongoing, and the violator's identity is apparent, notification to cease the unauthorized use should be made. These locations are also identified in Table 2, and include the Acme warehouse near Arch and Union Streets, the cemetery in Tallmadge, and the asphalt/aggregate plants in Munroe Falls and near Kent.

3) Consider the construction of barricades, gates, or chains at highway crossings and other locations where the right-of-way is accessible to vehicles. In many locations, these should be lockable devices to permit authorized access. These include locations identified in Table 2, Arlington Street, South Avenue, and Middlebury Road.

4) Equipment on the property, which is mostly signal-related, currently is secured by locks inherited from Conrail. It is recommended that the Port select a new industrial-grade restricted-key pattern lock style for all locks on equipment and access points, and replace all old locks. Besides the obvious logistical benefits, this will reduce the risk of possible unauthorized access to Conrail property.

5) Consider video-taping of the line on a periodic basis, perhaps annually. This will facilitate identification of changing conditions, and provide evidence of unauthorized access.

As long as no train operations are conducted, no specific railroad-related inspections of the property are required. If trains are operated under Class I or excepted track provisions, track inspections performed by a qualified person would be required weekly. As with any other piece of property, however, periodic inspections are strongly recommended. These should probably occur at least twice a year, though insurance provisions may require a greater frequency. Objectives of the inspections should include identification of unauthorized use, drainage and flooding problems, obvious structural problems, vandalism, and other changing conditions. It is suggested that the smaller structures and culverts be closely inspected at least every 2 to 3 years, in addition to the cursory periodic inspections.

Longer term maintenance recommendations, assuming no train operations are conducted, generally include only brush, vegetation, and drainage issues. While much of the line is isolated, there are segments that may periodically violate local vegetation standards for weed cutting and control. Except at bridges where structural damage can occur and in these special cases, while vegetation and tree removal is very desirable, it is not likely cost-effective to embark on a large-scale brush-cutting program for the entire line because of the high cost.

No immediate drainage maintenance needs are apparent, but it is wise to consider a drainage maintenance program to address all the conditions noted in Table 4. Given the generally acceptable existing conditions and current lack of funds, this should not be considered a top priority, but should be included in a long-range plan. It should also be expected that some emergency culvert maintenance and/or repair could be required during any given year. While the frequency and magnitude is impossible to predict, this situation is not likely to arise during most years. Erosion and other drainage-related failures pose a significant risk to the track and property, though, and any major failures should generally be addressed as soon as possible to minimize costs and further damage.

Highway Crossings

Several initial actions are recommended to address highway crossing related issues:

1) Signalization cases and battery wells at all crossings with automatic protection devices such as gates and flashing lights (as noted in Table 3) contain storage batteries. These should be removed and stored to prevent damage and for possible future reuse. As with any other battery, ideally these should be charged several times a year, but at minimum they should be removed from the crossings to avoid vandalism and liability concerns.

2) The cases currently contain the latest inspection records (generally as of early 1993) and wiring diagrams. These should be labeled, collected, and stored in a safe place to minimize costs and coordination problems when the devices are returned to service in the future.

3) The adjacent cities and other roadway authorities should be notified regarding the line's ownership, including a Port contact name for questions and communications. In particular, a reference should be made to the railbanking and preservative nature of the ownership, so that it is understood that crossings are not to be removed or damaged without prior approval of the Port.

Several specific initial actions are recommended at the following crossing sites, including:

South Avenue (SR91)

1) Requires minor asphalt patching.
2) Secure damaged battery well with chain or wire.

Southeast Avenue

1) Remove damaged unsecured signal case for storage.

Middlebury Road

1) Remove low hanging unused former railroad communication wires.
2) Arrange for disconnection of electric service (Ohio Edison meter in place).

Mogadore Road

1) Requires asphalt patching.
2) Remove or repair damaged north signal foundation (potential hazard to vehicles).
3) Arrange for disconnection of electric service (Ohio Edison meter in place).

Inspection of crossings is best performed during the twice yearly right-of-way inspection, with the objective being the provision of a safe crossing surface for the travelling public. This will often require asphalt patching. In terms of long-term maintenance, most crossings are in good condition, and will not require extensive repair for some time. The crossing in the worst condition is Mogadore Road, the rehabilitation of which could be delayed perhaps several years, if extensive patching is performed.

Bridges

As Table 4 shows, 28 structures and drainage culverts exist. No major structural deficiencies were noted, but the following initial actions are recommended:

Structure No. 1 over North Forge Street

1) For safety and liability exposure reasons, replace the handrail at the west side of structure to near original height. This involves removing some ballast and timber planks.

Structure No. 2 over W & LE Railroad

1) Replace the handrail on the south side and install a handrail on the top of the retaining wall.

Structure No. 3 over CSX

1) Consider installation of a walkway across the bridge, preferably on the south side where the second track has been removed.
2) Clean loose concrete from backwalls.

Structure No. 4 over stream

1) Remove debris from the upstream side of the cells.

Structure No. 5 over Munroe Falls Road

1) Consider installation of a walkway across the bridge, preferably on the south side where the second track has been removed.
2) Clean loose concrete from backwalls.

The PUCO requires that these bridges be inspected every year. Before the rail line is re-opened, it is recommended that a more detailed inspection of all structures, including capacity analyses, be performed.

Longer-term maintenance recommendations are noted on the bridge inspection reports, and include:

Structure No. 1 over North Forge Street

1) Remove trees growing between the tracks before they get too large. If allowed to continue to grow, eventually the trees will damage the track and structure.
2) This bridge shares the same substructure with the parallel CSX bridge. Before major substructure work is planned for this bridge, coordinate with CSX regarding maintenance responsibility.

Structure No. 2 over W & LE Railroad

1) Remove trees growing between the tracks before they get too large.
2) Bridge is a continuous structure that carries Port right-of-way and two active CSX tracks. Before major structural work is planned for this bridge, coordinate with CSX regarding maintenance responsibility.

Structure No. 4 over stream

1) Perform periodic visual check of slide area.

Special Issues/Recent Events

Several ongoing issues involve special considerations. One of these is the possible restoration of the Southwest Avenue highway crossing, which was apparently mistakenly removed by another public entity in the early 1990's. The east portion of this timber crossing remains in place, and is paved over with a layer of asphalt.

If the crossing was in fact removed without authorization, all appropriate notifications as recommended by the Port's legal advisor should be made to the public entity responsible for the unauthorized removal. Ideally, some agreement should be reached as to the funding and coordination of the future restoration of the crossing. However, given that no firm plans exist for the restoration of rail service on this segment, it may not be preferable to actually construct the crossing at this time, especially if partial funding must be provided by the Port. Normal wear and tear would begin, and maintenance costs could be incurred. The useful life of the crossing would be shortened long before it is used by any trains.

It has also been suggested that hazardous substance contamination may exist in the soil at this crossing. If this is the case, the typical practice is to include provisions in the crossing construction contract for testing and removal (to an authorized disposal site) of the contaminated materials.

A second crossing issue involves the county's and ODOT's plans to widen and reconstruct South Avenue (SR91). Standard practice is for the railroad owner and roadway authority to agree on the allocation of ...ts; typically the railroad is responsible for the crossing surface itself, but not the roadway approaches. State and Federal funding options are also available in some instances. Since a crossing is now in place,

it is generally best to provide a new, longer surface (to match the widened roadway) during the new construction. This will minimize construction costs, because additional modification of the highway approaches would be necessary if the work is done later. Road geometry and the rail crossing itself can be best integrated during the major road reconstruction.

If funding for the Port's portion of the project is not currently available, it is recommended that the roadway design include provisions for a finished roadway surface at the same elevation as the existing track. (The new roadway surface could be up to several inches higher if necessary.) Provisions should be made regarding the crown of the road as well, so that the new crossing surface can be accommodated in the future without major roadway reconstruction.

Several planning efforts are under way to provide rail passenger service to the University of Akron/Quaker Square/Inventors Hall of Fame city core area. These include excursion services operated by the Cuyahoga Valley Scenic Railroad (in conjunction with the Cuyahoga Valley National Recreation Area), commuter services involving Metro Regional Transit Authority and others, and intercity service possibly sponsored by the State of Ohio. The Port right-of-way is attractive for these efforts because it could provide space for dedicated trackage for train layover and storage, and for train operations including station stops near the Akron station without conflicting with freight service on the parallel CSX main line. For the Port right-of-way to be useful for these future services, several issues near Mill Street downtown Akron must be resolved.

One of these involves property ownership and available space for new trackage. Conrail (through its several predecessors) and CSX (through its predecessors) owned property parcels both outright and jointly through Akron. The situation is complicated by the fact that the former Erie (Port) and CSX lines previously crossed each other just east of Mill Street. This crossing is the approximate current western boundary of Port ownership, at the southern edge of the Mill Street bridge. The actual configuration of the property parcels in this vicinity is not clear, and will ultimately require a survey.

Following the abandonment of the former Erie, and a 1990 Conrail sale of property and rights to CSX, the CSX main tracks have been realigned, and now block any extension of track to the west (or south) from the Port right-of-way on the east side of CSX. Three alternatives exist to provide access from the Port to the Amtrak station in the vicinity of Quaker Square.

One of the alternatives, the restoration of an at-grade crossing with CSX, is highly undesirable for operational reasons, and would not be agreed to by CSX. A second is the relocation of CSX trackage to the west, also undesirable because it would require the imposition of decreased train speeds on CSX. The most attractive alternative may be the relocation of a length of retaining wall south of Mill Street between the railroad rights-of-way and the University of Akron. This would permit access to the wide area adjacent to the tracks north of University Street.

A separate issue concerning the provision of new passenger services to downtown Akron is the Mill Street bridge itself, which is currently planned for reconstruction by the city of Akron. It is recommended that the Port ensure that the new bridge have sufficient vertical clearances (the State of Ohio and the American Railway Engineering Association requires 23 feet) above the eastern spans of the new bridge where the new trackage would be located.

Summary

In summary, there are several relatively simple steps that should be taken to limit the liability of the Port with regard to the Akron-Kent rail line. These include physically restricting access and posting the appropriate notices. Regular inspections are recommended to identify conditions that could affect both potential liability and damage to the Port's property and improvements. While several initial actions are recommended involving the crossing signal equipment, bridge safety, and crossing maintenance, the line's facilities are generally in fair to good condition, and do not require major repair in the near term.

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IV. COSTS OF INSPECTIONS AND BASIC MAINTENANCE

Section III identifies a program of inspection and maintenance for all Akron-Kent rail line components and property. Tables 5, 6, 7, and 8 include estimates of possible costs to carry out these recommended programs, as performed by a private contractor or consultant. As might be expected, many of these tasks can be performed more inexpensively if similar work is consolidated at the same time, or is performed by Port or county staff.

The total cost of all recommended initial actions is about $34,000. The total cost of annual inspections, depending on the year, could be about $14,000 to $24,000. The total cost of maintenance will vary, depending on priorities, unforeseen circumstances, and available funding. These costs do not include additional track and signal inspections to support train operations.

Table 5

Property/Right-of-way

Initial Actions	Frequency	Cost Per Occurrence
Install Signage	One time	$8000
Unauthorized Use Notifications	One time	Port
Install Barricades/Gates	One time	$8000
Replace Locks	One time	$4000
Video Taping	One time	Port
Inspection		
General Inspection	Twice/year	$5000
Drainage Structure Inspection with Report (total cost if combined with general inspection)	Every 2 to 3 years	$10,000
Maintenance		
Large Scale Brush Removal	One time or as necessary	$20,000 to $40,000
Drainage Structure Clearing	Variable	Variable

Table 6 Highway Crossings		
Initial Actions	**Frequency**	**Cost Per Occurrence**
Remove Batteries	One time	Completed
Remove Records and Diagrams	One time	Port
Notify Cities	One time	Port
Specific Recommendations at Four Crossings	One time	$4000
Inspection		
Include in General Inspection	Twice/year	$0 additional
Maintenance		
Varies	Variable	Variable

Table 7 Bridges		
Initial Actions	**Frequency**	**Cost Per Occurrence**
All Bridge Repairs As Noted	One time	$10,000
Inspection		
Inspection and Report	Once/year	$4000
Maintenance		
Tree Removal	One time/then as necessary	$3000

Table 8 Special Issues	
Issue	**Cost**
Track/Signal Costs to Comply with Out-of-Service Provisions	$7000 to $10,000
Costs to Reverse Out-of-Service Track/Signal Provisions	$10,000 to $15,000
Start-up Signal Inspection/Testing Before Beginning Low-Speed Freight Operations over Entire Line	$2000 per crossing; $20,000 total
Annual Signal Maintenance/Inspections	$2000 per crossing
Installation of Southwest Avenue or South Avenue Highway Crossing	$50,000 each

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V. APPENDIX

LIST OF ITEMS

A. ORC 4955.37 Out-of-Service Provisions

B. Bridge Inspection Reports

C. Track Chart

HOUSE BILL NO. 154 (1993)

state-controlled land and waters, for the purchase of additional land to be used for such purposes, and for the development and implementation by the department of programs relating to the safe use and enjoyment of snowmobiles and all-purpose vehicles, except that the director of budget and management may transfer excess money from the state recreational vehicle fund to the state highway safety fund if the registrar of motor vehicles determines that the amount of money in the state recreational vehicle fund exceeds the amount required for the purposes set forth in this section and requests the director to make the transfer.

All investment earnings of the state recreational vehicle fund shall be credited to the fund.

Notwithstanding section 1501.01 of the Revised Code, nothing in this section authorizes the appropriation of property to provide trails and other areas for the operation of snowmobiles and all-purpose vehicles.

Sec. 4955.201. (A) IF THE INTERSTATE COMMERCE COMMISSION APPROVES THE ABANDONMENT OF A RAILROAD TRACK THAT CROSSES A ROAD OR HIGHWAY AT GRADE, THE RAILROAD THAT OWNED THE TRACK IMMEDIATELY AFTER THE APPROVAL OF THE ABANDONMENT SHALL REMOVE THE TRACK AT THE CROSSING AND FILL THE SPACE PREVIOUSLY OCCUPIED BY THE RAILS WITH THE SAME MATERIAL THAT COMPRISES THE ROAD OR HIGHWAY AT THE CROSSING. UPON COMPLETION OF THE WORK, THE SURFACE OF THE CROSSING WHERE THE RAILS PREVIOUSLY WERE LOCATED SHALL BE THE SAME HEIGHT AS THE SURFACE OF THE ROAD OR HIGHWAY ABUTTING THE CROSSING. THE RESTORED PORTION OF THE ROAD OR HIGHWAY SHALL MEET THE CONSTRUCTION STANDARDS APPLICABLE TO THE ROAD OR HIGHWAY OF WHICH THE RESTORED PORTION IS A PART.

(B) NO RAILROAD SHALL FAIL TO REMOVE FROM A CROSSING THE RAILS THAT COMPRISE A TRACK WHOSE ABANDONMENT HAS BEEN APPROVED OR FAIL TO FILL THE SPACE PREVIOUSLY OCCUPIED BY THE RAILS AS REQUIRED BY DIVISION (A) OF THIS SECTION.

Sec. 4955.37. (A) IF A RAILROAD DECIDES TO TAKE A PORTION OF TRACKS IT OWNS OUT OF SERVICE AND A PUBLIC ROAD OR HIGHWAY CROSSES AT GRADE SUCH TRACKS AT ANY LOCATION, THE RAILROAD SHALL SEND THE DEPARTMENT OF TRANSPORTATION A NOTICE INFORMING THE DEPARTMENT OF THE LOCATION OF THE TRACKS IT INTENDS TO TAKE OUT OF SERVICE AND THE LOCATION WHERE THE PUBLIC ROAD OR HIGHWAY CROSSES SUCH TRACKS AT GRADE. IF A RAILROAD SENDS SUCH A NOTICE, IT ALSO SHALL INCLUDE IN THE NOTICE CERTIFICATION STATING THAT WHEN IT TAKES SUCH TRACKS OUT OF SERVICE IT WILL REMOVE, COVER, OR OTHERWISE OBSCURE THE CROSSBUCK SIGNS AND ANY ADDITIONAL PROTECTIVE DEVICES THAT ARE AT THE LOCATION OF THE HIGHWAY GRADE CROSSING, AND THAT IT WILL NOT OPERATE OR PERMIT THE OPERATION OF ANY TRAINS ON THE TRACKS AT THE LOCATION OF THE HIGHWAY GRADE CROSSING DURING THE TIME THE OUT-OF-SERVICE SIGNS ARE POSTED.

IF THE RAILROAD SENDS THE DEPARTMENT SUCH A NOTICE AND INCLUDES SUCH CERTIFICATION, THE DIRECTOR OF TRANSPORTATION SHALL ISSUE AN OUT-OF-SERVICE DECLARATION, AND THE RAILROAD, NO LATER THAN SIX MONTHS AFTER THE DATE OF THE OUT-OF-SERVICE DECLARATION, SHALL REMOVE, COVER, OR OTHERWISE OBSCURE THE CROSSBUCK SIGNS AND ANY ADDITIONAL PROTECTIVE DEVICES THAT ARE AT THE LOCATION OF THE

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HIGHWAY GRADE CROSSING. THE RAILROAD ALSO SHALL REMOVE FROM EACH TRACK THAT CROSSES THE HIGHWAY GRADE CROSSING, AT A DISTANCE OF NOT LESS THAN THREE HUNDRED FEET ON EITHER APPROACH DIRECTION TO THE CROSSING, ONE PAIR OF PARALLEL RAILS LOCATED IN THE SAME PLANE. THE RAILROAD ALSO SHALL CAUSE NOTICE OF THE SCHEDULED DATE OF THE REMOVAL, COVERING, OR OBSCURING OF THE CROSSBUCK SIGNS AND ANY ADDITIONAL PROTECTIVE DEVICES AT THE LOCATION OF THE HIGHWAY GRADE CROSSING TO BE PUBLISHED ONCE A WEEK FOR THREE CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE HIGHWAY GRADE CROSSING IS LOCATED.

(B) UPON ISSUANCE OF A DECLARATION DESCRIBED IN DIVISION (A) OF THIS SECTION, THE DEPARTMENT SHALL SEND WRITTEN NOTIFICATION TO THE SCHOOL DISTRICT IN WHICH THE HIGHWAY GRADE CROSSING IS LOCATED, THE LAW ENFORCEMENT AGENCY WITHIN WHOSE JURISDICTION THE HIGHWAY GRADE CROSSING IS LOCATED, ANY TRANSIT AUTHORITY WITHIN WHOSE JURISDICTION THE HIGHWAY GRADE CROSSING IS LOCATED, AND ANY OTHER PERSON THE DEPARTMENT DETERMINES SHOULD BE INFORMED OF THE POSTING OF THE OUT-OF-SERVICE SIGNS. THE DEPARTMENT ALSO SHALL POST OUT-OF-SERVICE SIGNS AT THE CROSSING ON OR ABOUT THE SCHEDULED DATE OF THE REMOVAL, COVERING, OR OBSCURING BY THE RAILROAD OF THE CROSSBUCK SIGNS AND ANY ADDITIONAL PROTECTIVE DEVICES AT THE LOCATION OF THE HIGHWAY GRADE CROSSING. THE SIGNS SHALL COMPLY WITH AND BE POSTED IN COMPLIANCE WITH THE MANUAL ADOPTED BY THE DEPARTMENT PURSUANT TO SECTION 4511.09 OF THE REVISED CODE.

(C) WHEN OUT-OF-SERVICE SIGNS ARE POSTED AT A GRADE CROSSING PURSUANT TO THIS SECTION, THE RAILROAD THAT OWNS THE TRACKS LOCATED AT THAT CROSSING SHALL PERFORM ONLY SUCH MAINTENANCE AS MAY BE REQUIRED BY LAW TO BE PERFORMED ON OUT-OF-SERVICE TRACKS, AND NOT THE MAINTENANCE THAT IS REQUIRED BY LAW TO BE PERFORMED ON TRACKS THAT ARE IN USE.

(D) IF A RAILROAD THAT OWNS TRACKS LOCATED AT A HIGHWAY GRADE CROSSING AT WHICH OUT-OF-SERVICE SIGNS HAVE BEEN POSTED IN ACCORDANCE WITH THIS SECTION DESIRES TO REACTIVATE THE TRACKS AND RETURN THEM TO SERVICE EITHER FOR A LIMITED PERIOD OF TIME OR PERMANENTLY, THE RAILROAD SHALL SUBMIT A WRITTEN NOTICE TO THE DEPARTMENT INFORMING IT OF THIS FACT. UPON RECEIPT OF THE NOTICE, THE DEPARTMENT SHALL SEND WRITTEN NOTIFICATION TO THE PERSONS DESCRIBED IN DIVISION (B) OF THIS SECTION TO WHOM IT ORIGINALLY SENT NOTIFICATION OF THE POSTING OF THE OUT-OF-SERVICE SIGNS, INFORMING THEM THAT THE SIGNS WILL BE REMOVED FROM THE HIGHWAY GRADE CROSSING AND THE TRACKS RETURNED TO SERVICE. THE RAILROAD SHALL CAUSE NOTICE OF THE REMOVAL OF THE OUT-OF-SERVICE SIGNS AND REACTIVATION OF THE TRACKS AT THE HIGHWAY GRADE CROSSING TO BE PUBLISHED ONCE A WEEK FOR THREE CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE HIGHWAY GRADE CROSSING IS LOCATED. AFTER PUBLICATION OF THE THIRD NEWSPAPER NOTICE DESCRIBED IN THIS DIVISION, BUT NOT LATER THAN SEVEN DAYS AFTER THE DATE OF PUBLICATION OF THAT THIRD NOTICE, THE RAILROAD SHALL REMOVE THE OUT-OF-SERVICE SIGNS AT THE HIGHWAY GRADE CROSSING AND RETURN THEM TO THE DEPARTMENT AND POST CROSSBUCK SIGNS AS REQUIRED BY SECTION 4955.33 OF THE REVISED

CODE. THE RAILROAD SHALL NOT PERMIT THE OPERATION OF ANY TRAINS ON THE REACTIVATED TRACKS PRIOR TO SEVEN DAYS AFTER THE DATE OF PUBLICATION OF THE THIRD NOTICE DESCRIBED IN THIS DIVISION.

AFTER PUBLICATION OF THE THIRD NEWSPAPER NOTICE DESCRIBED IN THIS DIVISION, BUT NOT LATER THAN SEVEN DAYS AFTER THE DATE OF PUBLICATION OF THAT THIRD NOTICE, THE DEPARTMENT SHALL POST SIGNS ON ALL STREETS AND HIGHWAYS THAT CROSS THE TRACKS THAT ARE BEING REACTIVATED, INFORMING THE PUBLIC THAT THE PREVIOUSLY OUT-OF-SERVICE HIGHWAY GRADE CROSSING IS BEING REACTIVATED, AND TO PROCEED WITH CAUTION. THE SIGNS SHALL BE POSTED IN ACCORDANCE WITH THE MANUAL ADOPTED BY THE DEPARTMENT PURSUANT TO SECTION 4511.09 OF THE REVISED CODE.

(E) IF A RAILROAD THAT OWNS TRACKS LOCATED AT A HIGHWAY GRADE CROSSING AT WHICH OUT-OF-SERVICE SIGNS HAVE BEEN POSTED IN ACCORDANCE WITH THIS SECTION BELIEVES THAT AN EMERGENCY EXISTS AND THAT DUE TO THE NATURE OF THE EMERGENCY THE TRACKS MUST BE REACTIVATED AND RETURNED TO SERVICE WITHOUT COMPLIANCE WITH THE PUBLICATION REQUIREMENT CONTAINED IN DIVISION (D) OF THIS SECTION FOR REACTIVATION OF THE TRACKS, THE RAILROAD SHALL SEND WRITTEN NOTIFICATION TO THE DIRECTOR INFORMING HIM OF THIS FACT AND REQUESTING PERMISSION TO REACTIVATE THE TRACKS WITHOUT COMPLYING WITH THE PUBLICATION REQUIREMENT. THE DIRECTOR SHALL EVALUATE THE NOTIFICATION, DETERMINE WHETHER AN EMERGENCY ACTUALLY EXISTS, AND EVALUATE THE EFFECTS OF REACTIVATING THE TRACKS WITHOUT COMPLIANCE BY THE RAILROAD WITH THE PUBLICATION REQUIREMENT. IF THE DIRECTOR DETERMINES THAT AN EMERGENCY EXISTS AND THAT STEPS CAN BE TAKEN IN A TIMELY MANNER TO MINIMIZE THE DANGER TO THE TRAVELING PUBLIC IF THE TRACKS AT THE HIGHWAY GRADE CROSSING ARE REACTIVATED WITHOUT COMPLIANCE WITH THE PUBLICATION REQUIREMENT CONTAINED IN DIVISION (D) OF THIS SECTION, THE DIRECTOR SHALL GRANT THE RAILROAD WRITTEN AUTHORIZATION TO REACTIVATE THE TRACKS WITHOUT COMPLIANCE WITH THE PUBLICATION REQUIREMENT, AND SHALL REQUIRE THE RAILROAD AND THE DEPARTMENT TO TAKE SUCH MEASURES AS MAY BE NECESSARY TO PROTECT THE TRAVELING PUBLIC FROM THE DANGERS PRESENTED BY THE REACTIVATED TRACKS AT THE HIGHWAY GRADE CROSSING DUE TO THE FACT THAT THE TRAVELING PUBLIC WAS NOT NOTIFIED IN ADVANCE OF THE REACTIVATION.

(F) NO RAILROAD SHALL OPERATE OR PERMIT THE OPERATION OF ANY TRAIN ON TRACKS THAT CROSS A GRADE CROSSING AT WHICH OUT-OF-SERVICE SIGNS ARE POSTED PURSUANT TO DIVISION (A) OF THIS SECTION.

Sec. 4955.99. WHOEVER VIOLATES DIVISION (B) OF SECTION 4955.201 OR DIVISION (F) OF SECTION 4955.37 OF THE REVISED CODE IS GUILTY OF A MISDEMEANOR OF THE FIRST DEGREE.

END

Sec. 5501.04. The following divisions are hereby established in the department of transportation:

(A) The division of administration;
(B) The division of public transportation;
(C) The division of rail transportation;
(D) The division of aviation;
(E) The division of water transportation;
(F) The division of construction;